

**CALIFORNIA COASTAL COMMISSION**

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# Fri 13a

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Staff: KA-SD  
Staff Report: 7/18/03  
Hearing Date: 8/6-8/03

## STAFF REPORT AND RECOMMENDATION ON APPEAL

Application No.: A-6-CII-00-087

Applicant: City of Carlsbad

Agent: Michael Holzmillner

Description: Development of an 18 hole championship golf course, clubhouse, parking lot, maintenance facilities, driving range, conference center and pads for future industrial/golf related uses on 397 acre site.

Site: North of Palomar Airport Road and east and west of College Boulevard, Mello II, Carlsbad, San Diego County. APN 155-104-04

Substantive File Documents: Certified City of Carlsbad Local Coastal Program; City of Carlsbad File No. CDP 97-25; Appeal File A-6-CII-087; Staff Report on Recommendation on Appeal Substantial Issue dated 5/7/03; City of Carlsbad LCP Amendment No. 1-03B (Habitat Management Plan) File.

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### STAFF NOTES:

At its June 12, 2003 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo recommendation.

### Summary of Staff's Preliminary Recommendation:

The staff recommends that the Commission, after public hearing, approve the permit with conditions. The proposed development will be constructed on an undeveloped 397-acre site located north of Palomar Airport Road, south of Faraday Avenue, east of Hidden Valley Road, and extending on either side of College Boulevard. The project site is located both inside and outside the coastal zone. No significant impacts to public access or public views are anticipated. The primary issues raised by the proposed development relate to habitat protection and water quality. No permanent impacts to wetlands will occur and as conditioned, there will be no net loss of native habitat, appropriate mitigation measures will be applied for all upland and temporary riparian impacts, and native habitat in preservation areas will be permanently protected with buffer areas and

conservation easements. To address water quality, special conditions have been applied to require that Best Management Practices be incorporated to control stormwater leaving the developed site, to require installation of permanent runoff and erosion control devices, and to require that detailed plans for erosion control, water quality monitoring, fertilizer and pesticide use and turf management be submitted by the applicant.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. A-6-CII-00-087 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Development Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, detailed final plans for the proposed development that include site, building, grading and drainage plans. Said plans shall be in substantial conformance with the plan entitled "City of Carlsbad Golf Course Revisions" submitted

with LCPA 1-03B (Habitat Management Plan) on February 7, 2003 and shall comply with the following:

- a. There shall be no impacts to southern maritime chaparral habitat within the Coastal Zone portion of the project. Impacts to coastal sage scrub shall be consistent with the approved development plan and shall be mitigated as addressed in Condition #2 below. Any temporary impacts to wetland and/or riparian areas for the purpose of constructing golf cart path crossings shall be restored as addressed in Condition #3 below.
- b. The conservation and development areas for the golf course property shall be consistent with the golf course hardline map (Figure 8 Revised) in the City of Carlsbad Habitat Management Plan (HMP). Areas shown for conservation shall not be impacted or disturbed except for revegetation, restoration and other similar activities related to mitigation. Areas shown for impact may be fully developed with appropriate mitigation.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Mitigation for Upland Habitat Impacts. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final detailed coastal sage scrub mitigation plan. Said plan shall be developed in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, and shall include the following:

- a. Preparation of a detailed site plan delineating all areas and types of impact to upland habitat species (both permanent and temporary) and the exact acreage of each impact. In addition, a detailed site plan of the mitigation sites shall also be included.
- b. Impacts to coastal sage scrub shall be mitigated at not less than a ratio of 2:1.
- c. Mitigation methods shall be consistent with those approved in Section 7-9 of the second addendum to the Carlsbad HMP and Policy 7-1.10 of the Mello II Land Use Plan of the Carlsbad LCP, as provided in Exhibit 10.
- d. A minimum buffer of 20 feet shall be provided between development as defined in Section 30106 of the Coastal Act, and native upland habitat, except as otherwise provided in Section 7-11 of the second addendum to the Carlsbad HMP and Policy 3-1.12 of the Mello II Land Use Plan of the Carlsbad LCP, as provided in Exhibit 10.

- e. Location where the seeds will be collected and identification of plant species to be used for the restoration area;
- f. Application rate (e.g. pounds per acre of seeding effort);
- g. Methods of weed eradication. No weed whips shall be permitted after installation of the seed mixes;
- h. Designation of a qualified botanist to supervise the restoration effort;
- i. Criteria for defined goals, objectives and performance standards. These shall include the following: three years after the initial planting, the restored areas should support at least 10 native species appropriate to the vegetation type and have evidence of natural recruitment of at least one-half of these species. Weeds should be controlled as specified in (i) above and never constitute more than 10 percent of the total cover. Cover by native vegetation should increase over time and ultimately approach 60 percent;
- j. At completion of the mitigation/restoration effort, the restoration specialist shall prepare a letter report indicating that the installation is finished and that the three-year monitoring period has begun. Monitoring reports shall be submitted to the City annually for three years. If at the end of three years, any of the restored areas fail to meet the year-three standards as contained in the final mitigation plan, the monitoring and maintenance period will be extended one full year for that area. This process shall continue until all year-three standards are met.

The permittee shall undertake development in accordance with the approved mitigation/restoration plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Restoration for Construction Impacts. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, if any temporary wetland and/or riparian impacts are proposed, the applicant shall submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and any other landscape features necessary to revegetate any proposed temporary wetland and/or riparian impacts. The restoration program shall be developed in consultation with the U.S. Department of Fish and Wildlife and the California Department of Fish and Game, and at a minimum shall include:

Before/After Survey. The condition of the wetland and/or riparian revegetation and substrate under the two approved golf cart crossing locations shall be documented prior to construction, and the extent of proposed temporary impacts shall be identified. The extent of impacts to the vegetation and substrate shall be assessed

and documented after completion of the repairs. Temporary wetland and/or riparian impacts shall be revegetated at a ratio of 1:1. There shall be no wetland impacts except for those temporary impacts associated with construction of the two approved golf cart crossings. No permanent wetland or riparian impacts shall be allowed.

- a. The following goals, objectives and performance standards for the restoration sites:
  1. Full restoration of all wetland and/or riparian impacts that are identified as temporary. Restoration of temporarily impacted areas shall include, at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland and/or riparian plant species.
  2. After construction and restoration, a permanent minimum buffer of 100 feet shall be provided between development and wetlands, and a minimum buffer of 50 feet shall be provided between development and riparian area, except as shown on the "City of Carlsbad Golf Course Revisions" plan dated February 7, 2003. For the two approved golf cart path crossings and the golf course playing areas adjacent to the riparian area as shown on the plan, an average minimum post-construction buffer of 50 feet shall be provided between new development and wetlands, and an average minimum post-construction buffer of 25 feet shall be provided between new development and riparian areas, consistent with Policy 3-1.12 of the Mello II Land Use Plan and Section 7-11 of the Carlsbad HMP, as provided in Exhibit 10, unless otherwise approved by the Executive Director in a manner consistent with the final, approved development plans and mitigation/restoration plans. The buffer between development and riparian/wetland habitat for these referenced areas shall not be less than 10 feet in width at any one point.
  3. As shown on the plan entitled "City of Carlsbad Golf Course Revisions" submitted with LCPA 1-03B (Carlsbad HMP) on February 7, 2003, and consistent with the golf course hardline map (Figure 8 Revised) in the Carlsbad HMP, golf cart path crossing #1 shall utilize the existing farm road, and crossing #2 shall utilize a bridge span structure. No permanent riparian impacts shall occur for either crossing.
  4. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities.

5. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives and performance standards.
6. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the restoration sites have been established in accordance with the approved design and construction methods.

Construction impacts to sensitive habitat areas (e.g., coastal sage and other native upland habitat, wetlands, and riparian areas) shall be avoided by identifying and staking all sensitive habitats outside the project footprint, and educating the construction crews about the importance of these habitats and need for protection.

The permittee shall undertake development in accordance with the approved restoration plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Final Landscape Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a detailed final landscape plan for the proposed development. Said plan shall show the type, size, extent and location of all proposed vegetation and any necessary irrigation, and shall provide the following information and/or commit to the following requirements:

- a. The installation of plant materials on the site shall consist only of drought-tolerant native or non-invasive plant materials.
- b. Required habitat buffers, as provided in Special Condition #2, shall be identified. The applicant shall provide a list of proposed plants to be used in the buffer areas, and shall indicate the type and location of any proposed barriers, signage or other methods that will be utilized to separate golf course activities from protected native habitat, wetlands and/or riparian area.
- c. A planting schedule that indicates the planting plan will be implemented within 60 days of completion of construction.
- d. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.
- e. A written commitment by the applicant that five years from the date of opening of the golf course, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed

Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

- f. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake development in accordance with the approved landscaping plans. Any proposed changes to the approved landscaping plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Erosion Control Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, an erosion and sediment control plan for the proposed development, prepared by a qualified resource specialist. The plan shall be in substantial conformance with the following requirements:

- a. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags. No grading or staging of equipment or supplies shall occur in the protected areas.
- b. The plan shall specify that if grading occurs during the rainy season (October 1 - March 31), the applicant undertake the following protective measures to assure offsite sedimentation is minimized to the maximum extent feasible: install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers and/or silt fencing; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.

These erosion and sediment control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process. All sediment should be retained on-site unless removed to an approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- c. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, and/or silt fencing; and installation of temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

The permittee shall undertake development in accordance with the approved erosion control plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Drainage and Polluted Runoff Control Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce the pollutant load of runoff to the maximum extent feasible, and reduce or eliminate any potential increases in the volume or velocity of runoff leaving the site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a. Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- b. BMPs shall be selected to address the pollutants of concern for this development, including sediments, nutrients, pesticides, fertilizers, metals, petroleum hydrocarbons, trash and debris, and organic matter.
- c. Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of all outflow drains.
- d. Drainage from all roofs, parking areas, driveway area, and other impervious surfaces on the building pad shall be directed through vegetative or other media filter devices effective at removing and/or treating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- e. Opportunities for directing runoff into pervious areas located on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized.



- f. The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment to this coastal development permit or a new coastal development permit is legally required to authorize such work.
- g. Parking lots susceptible to stormwater should be swept with a vacuum regenerative sweeper on a regular basis.
- h. The golf course shall be equipped with flow reducers or shutoff valves triggered by a pressure drop so that broken pipes do not increase flow to the storm drains;
- i. The applicant shall provide, for the review and approval of the Executive Director, plans for a self-contained cart washing facility that is equipped with a pre-treatment facility, and, if significant discharge is proposed, is connected to the sanitary sewer;
- j. All storm drain inlet structures must be equipped with trash racks, which shall be maintained by the applicant and/or authorized agent.
- k. Storm drains shall be stenciled with water quality warnings indicating that the drain flows to the lagoon.

The permittee shall undertake development in accordance with the approved drainage and runoff control plans. Any proposed changes to the approved drainage and runoff control plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Water Quality Monitoring Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a water quality monitoring plan to address the quality of runoff prior to leaving the site or entering the onsite riparian area. The plan shall describe the methodology for monitoring, including specific threshold levels and sampling protocols,

location of monitoring sites, schedule for monitoring, and reporting of results. The monitoring plan shall also include a contingency plan describing the actions to be taken if water quality impacts are discovered. In addition to specifications above, the plan shall be in substantial conformance with the following requirements:

- a. The plan shall require monitoring of the following pollutants: nitrates, nitrites, phosphates, dissolved oxygen, pH, total suspended solids (TSS), acute and chronic toxicity, and shall indicate the proposed sampling frequencies. Total suspended solids (TSS) shall be sampled for at the same frequency as the nutrients.
- b. The plan shall specify maximum threshold levels for each water quality parameter.
- c. The plan shall specify sampling protocols to be used for each water quality parameter. Measurements must be precise enough to evaluate compliance with applicable water quality threshold levels.
- d. Sampling for baseline data shall be conducted a minimum of three (3) times and during different level storms to acquire a representative sample of water quality conditions at the site.
- e. Results of monitoring shall be submitted to the Executive Director annually.
- f. If any water quality threshold levels referred to above in b) are exceeded, the applicant (or successor interest) shall notify the Executive Director of the exceedances and potential impacts and within 48 hours of receipt of the monitoring data. At the same time the applicant shall consult with the Executive Director regarding the need for additional sampling to evaluate the exceedance or corrective action to minimize water quality impacts. The applicant shall report to the Executive Director on the possible causes of the exceedance and proposed corrective actions within 30 days of the initial receipt of the data.
- g. If any water quality impacts persist after three years of detection, notwithstanding any corrective actions taken by the applicant, all use of the chemicals that exceed water quality threshold levels shall cease.

8. Turf and Pest Management Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, a detailed turf and pest management plan for the golf course portion of the development. The plan shall comply with the following requirements:

- a. Turf management practices shall minimize fertilizer use, water use and chemical pest control to the maximum extent feasible, to avoid impacts to native upland habitat, wetlands, riparian areas, and water quality.

- b. The plan shall favor non-chemical strategies over chemical strategies for managing onsite pests. Chemical strategies shall only be employed after all other strategies have been used and proven ineffective. This shall be demonstrated by providing written notice to the Executive Director of the non-chemical strategies that will be used, the reasons for their ineffectiveness, and the chemical strategies that are being considered.

The permittee shall undertake development in accordance with the approved turf and pest management plan plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Public Golf Course Facility. The golf course, clubhouse, parking areas, driving range, conference center and pads for future industrial/golf related uses shall be operated as facilities open to the general public. Any proposed change in the level of public access and/or public use shall require an amendment to this permit. Signage shall be provided indicating that the onsite facilities as provided above are open to the public.

10. Open Space and Conservation Easement.

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur in those areas indicated as Preservation Areas in Exhibit 7 (City Golf Course, Revised Figure 8 of the Carlsbad HMP, CAR LCPA 1-03B), except for temporary impacts associated with construction of the two approved golf cart path crossings, consistent with Special Condition #3, and onsite habitat restoration/revegetation activities as part of an approved coastal sage scrub mitigation plan, consistent with Special Condition #2.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a the California Department of Fish and Game and the U.S. Fish and Wildlife Services, or their successor agencies, an open space and conservation easement over all onsite habitat preservation areas, and all mitigation areas (onsite and/or offsite) that will be utilized to address onsite impacts to habitat. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area(s). The recorded document shall also reflect that development in the easement area(s) is restricted as set forth in this permit condition.
- C. The offer to dedicate shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be

irrevocable for a period of 21 years, such period running from the date of recording.

11. Protection of the Coastal California Gnatcatcher. To prevent breeding/nesting season impacts to the coastal California gnatcatcher (*Polioptila californica californica*), the permittee shall not undertake any clearing or grading activities in occupied gnatcatcher habitat between March 1 and August 15, unless approved in writing by the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

12. Open Space Restriction.

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in habitat buffer areas as required in Special Conditions #2 and 4, and as identified in the final landscape plans, and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, except for

1. approved landscaping activities and plantings and/or restoration and revegetation of native habitat according to the final coastal sage scrub mitigation plan; and

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit 7 attached to this staff report.

C. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification or amendment thereof – remains in existence on or with respect to the subject property.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

##### 1. Detailed Project Description.

###### A. Site Characteristics:

The proposed development is a championship municipal golf course and associated development on a 397 acre site consisting of 18 golf holes (354 acres), a 22,000 square foot clubhouse, a 222 stall, 2.5 acre parking lot, 11.5 acre driving range with bunker lighting, creation of three pads totaling 22.2 acres for future development of planned industrial/golf related commercial development, a 9,040 sq.ft. maintenance building, restroom facilities and a 21,000 sq.ft. conference center and related uses. The site is vacant with the exception of College Boulevard, a major north/south roadway which generally runs through the middle of the site, utility powerlines that bisect the site and an existing police shooting range, located in the northeast portion of the site, which is proposed to be relocated as part of the proposed development. The single point of public access to the golf course parking lot and clubhouse is at the northern terminus of Hidden Valley Road.

The site is located north of Palomar Airport Road, south of Faraday Avenue, east of Hidden Valley Road and extends on either side of College Boulevard. The project site is located both in and out of the coastal zone, with approximately two-thirds of the site located within the coastal zone. The project is immediately east of Carlsbad Ranch/Legoland and west of the Carlsbad Research Center and Palomar Airport. Portions of the site are within Phase III of the Carlsbad Airport Center, College Business Park, and the southern section of Veteran's Memorial Park. To the north is the Veteran's Memorial Park which will ultimately be developed as an outdoor recreation facility. To the west is Legoland Carlsbad which is also primarily an outdoor recreation facility.

The project site is traversed by three electric transmission lines (which are carried on poles and towers) and a 20-inch gas pipeline. The utility lines cross the middle of the site from the southeast to the northwest sections. The gas pipeline traverses the northern portion of the site generally paralleling and then crossing a riparian area.

The project encompasses approximately 397 acres and has a varied topography which consists primarily of 25 acres of riparian habitat (following a creek which cuts east/west through the northern portion of the site) and rolling hills to moderately steep slopes. Portions of the site have been disturbed through previously approved grading, active agriculture, easement and line maintenance, and illegal encampments. Those areas which have not been disturbed have varying degrees native and non-native vegetation. Along with the riparian habitat, the golf course site contains approximately 80.2 acres of coastal sage scrub, 6.7 acres of southern maritime chaparral, 199 acres of non-native grassland, and 2.0 acres of native grassland. Within the upland habitat areas, 7 pairs of coastal California gnatcatchers were previously identified, as well as possibly one burrowing owl

and an undetermined number of orange-throated whiptails. Approximately 150 acres of native vegetation are located on both steep and non-steep slopes.

The first of three proposed industrial pads is five acres in size and is located at the corner of Palomar Airport Road and Hidden Valley Road. The two other industrial pads are proposed at the eastern edge of the site on either side of College Boulevard. The 8.4-acre pad proposed on the north side of College Boulevard will be located partially in the coastal zone. The 5.9-acre proposed pad on the south side of the road is not located in the coastal zone. Both pads will be accessed from College Boulevard.

In CDP #6-86-102 (City of Carlsbad), the Commission approved the construction of College Blvd., a major north/south roadway which generally runs through the middle of the site. Some of the residual cut grading associated with construction of the road was placed on the property adjacent to the road right-of-way pursuant to CDP #6-86-269.

As noted above, the proposed development is located both inside and outside the Coastal Zone. The subject of this review relates only to those portions of the development located in the Coastal Zone.

#### B. Previous Project Design:

As originally approved by the City of Carlsbad on June 7, 2000, impacts were proposed to approximately 0.15 acres of wetland area associated with the three golf cart paths that were planned to cross the riparian corridor and streambed to provide access to holes 13 and 15 on the north side of the stream. Additional impacts to wetland resources totalling approximately 2.85 acres would have resulted throughout the site from the proposed locations of various components of the development (golf holes, driving range, club house, industrial pads and drainage facilities), with approximately 2.5 total acres of wetland/riparian impacts inside the coastal zone. The on-site wetlands consist of riparian woodland along the creek bed and numerous drainage courses at higher elevations. To address proposed impacts to wetlands, approximately 5.3 acres of riparian habitat was proposed to be enhanced offsite at the Carltas site south of Palomar Airport Road in Encinas Creek, which is within the coastal zone. In addition, approximately 5 acres of on-site creation of riparian habitat was proposed adjacent to an existing wetland mitigation site located on the project site along the north bank of the creek within the coastal zone (mitigation for wetland impacts associated with the construction of Cannon Road to the west).

In total, the project as originally approved by the City included impacts to 3 acres of wetland/riparian area (2.5 acres in the coastal zone), 4 acres of impact to southern maritime chaparral (.4 acres in the coastal zone), 49.2 acres of coastal sage scrub (21.3 in the coastal zone) and up to 8.5 acres of steep slopes with coastal sage scrub ("dual-criteria slopes") in the coastal zone that are occupied by the California gnatcatcher. No mitigation was proposed for upland habitat impacts. The original golf course project layout is attached as Exhibit 4.

Based on continuing inconsistencies with the wetland and riparian resource protection policies, buffer requirements and policies protecting steep slopes and environmentally sensitive habitat areas (ESHA), the Commission found that the project was inconsistent with the City of Carlsbad's certified LCP and therefore raised a substantial issue with regards to the grounds raised by the appellants.

Pursuant to Policy 3-7 of the certified Mello II LUP (updated in 2003; relevant requirements are now in Policy 3-1.7), wetland and riparian resources were required to be protected and preserved, and no direct impacts could be allowed except for expansion of existing circulation element roads and those direct impacts associated with the installation of utilities (water, sewer, electrical). The impacts that were proposed to be associated with the golf course development are not a permitted use within a wetland. Instead, the City found that on balance, because the proposed impacts had been accepted by the resource agencies as being consistent with the City's draft HMP, they could be accepted if appropriately mitigated. However, at that time, the HMP was not part of the certified LCP and could not serve as the standard of review for the proposed impacts. Therefore, the project could not be found consistent with Policy 3-7 of the Mello II LUP.

Additionally, Policy 3-8 of the certified Mello II LUP (updated in 2003; relevant requirements are now in Policy 3-1.12), new development must be set back by a minimum of 50 feet from riparian resources and 100 feet from wetland resources, unless the applicant demonstrates that a buffer of lesser width will protect the identified resource, based on site-specific information. Although the original project design included an extensive wetland and riparian mitigation component that was developed in consultation with the resource agencies, no findings were made by the City regarding the sufficiency of the proposed golf course design to provide adequate buffers from sensitive resources and active and passive recreational uses. Therefore, the project could not be found consistent with Policy 3-8 of the Mello II LUP.

Policy 4-3 of the certified Mello II LUP and the Coastal Resource Overlay Protection Zone (Section 21.203 of the certified Carlsbad Municipal Code) requires that for those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, "(s)lopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. Uses of slopes over 25% may be made to provide access to flatter areas if there is no less environmentally damaging alternative available." Up to 10% of "dual criteria" slopes may be disturbed in addition to steep slopes that are required to access flatter areas. The golf course site contains approximately 25 acres of dual criteria slopes; the original golf course design would have resulted in impacts to 8.5 acres of dual-criteria slope impact (35%). The City found that since there would be no net loss of dual criteria slopes through a mitigation program of onsite and offsite (outside the Coastal Zone) preservation and restoration of dual criteria slopes, the proposed impacts could be found consistent with the certified LCP. However, at that time the LCP had no provisions whereby a greater than 10% impact to dual criteria slopes could be accepted and/or mitigated by preservation or revegetation. Therefore, the project could

not be found consistent with Policy 4-3 of the Mello II LUP and the Coastal Resource Protection Overlay Zone.

Based upon the above-described inconsistencies with the certified City of Carlsbad LCP, an appeal of the City's CDP for the golf course project was filed by Commissioner Sara Wan and Commissioner Pedro Nava on June 27, 2000. On June 12, 2003, the Commission found that the development, as approved by the city of Carlsbad, raised a substantial issue with regards to the grounds raised by the appellants.

C. Current Project Design:

A revised project design was submitted by the City as part of an LCP amendment on February 7, 2003 (Exhibit 5). The purpose of the LCP amendment was to incorporate the final Carlsbad HMP and second addendum into the LCP, and include revisions and additions to the LCP that paralleled the HMP for consistency between the two documents. The LCP revisions, and the golf course project redesign, were made by the City in response to input from Commission staff and the resource agencies. The revised golf course design eliminates impacts to southern maritime chaparral and wetlands in the coastal zone. Total impacts to coastal sage scrub have been reduced from 49.2 acres to 42.5 acres (from 21.3 acres to 14.2 acres in the coastal zone). Mitigation will be provided for all coastal sage scrub impacts at a 2:1 ratio, with at least 1:1 new creation, to ensure no net loss of habitat. This mitigation will be accommodated onsite to restore and improve wildlife corridor connections.

The revised design reduces overall impacts both inside and outside the coastal zone, as shown in Exhibit 6. Within the coastal zone, impacts to coastal sage scrub have been reduced from 21.3 acres to 14.2 acres, and impacts to wetlands and southern maritime chaparral have been eliminated. Dual-criteria slope impacts in the coastal zone have been reduced from 8.5 acres (16.6%) to 3.7 acres (7.2%), and non-native grassland impacts have been reduced from 94.1 acres to 73.3 acres. Outside the coastal zone, impacts to southern maritime chaparral, non-native grassland and wetlands have also been reduced. Although small increases in proposed impacts to dual-criteria slopes and coastal sage scrub are proposed outside the coastal zone area of the project, the proposed onsite 2:1 mitigation for coastal sage scrub will apply to impacts both inside and outside of the coastal zone portions of the project. Mitigation for impacts to southern maritime chaparral and riparian area outside of the coastal zone will be also mitigated onsite, at a ratio of 3:1. Therefore, there will be no net loss of habitat on the site, either inside or outside of the coastal zone.

To achieve these reduced habitat impacts, the redesign of the proposed development included the following changes:

- The commercial/industrial pad located at the northeast corner of Hidden Valley Road and Palomar Airport Road (approximately 5 acres) was deleted to avoid wetland impacts.



- The golf practice range was narrowed slightly and reoriented to avoid wetland impacts.
- Hole 1 was relocated to avoid wetland impacts.
- The most northwesterly cart path in the original development proposal, located between Holes 12 and 13, was deleted to eliminate one of the riparian crossings and avoid wetland/riparian impacts.
- The original Hole 12 was deleted to provide greater protection for an identified gnatcatcher territory in coastal sage scrub habitat. It was replaced by a new Hole 12 in non-native grassland located between Holes 13 and 15 of the original plan. Holes 12, 13 and 14 were renumbered to reflect these revisions.
- The industrial parcel located on the north side of College Boulevard (approximately 6.7 acres) was reconfigured to reduced coastal sage scrub impacts, enlarge the proposed wildlife corridor on the east side of the site, and provide greater protection for an identified gnatcatcher territory.
- The alignment of the cart path between Holes 15 and 16 was modified to reduce wetland impacts (outside the coastal zone).

1. Environmentally Sensitive Habitat Area (ESHA)

Policy 3-1.2 of the Mello II LUP and Section 7-1 of the second addendum to the Carlsbad HMP state:

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Policy 3-1.9 of the Mello II LUP and Section 7-8 of the second addendum to the Carlsbad HMP state, in part:

There shall be no net loss of Coastal Sage Scrub, Maritime Succulent Scrub, Southern Maritime Chaparral, Southern Mixed Chaparral, Native Grassland and Oak Woodland within the Coastal Zone of Carlsbad ...

Policy 3-1.12 of the Mello II LUP and Section 7-11 of the second addendum to the Carlsbad HMP state, in part:

Buffers shall be provided between all preserved habitat and development. Minimum buffer widths shall be provided as follows:

- a. 100 ft. for wetlands
- b. 50 ft. for riparian areas
- c. 20 ft. for all other native habitats (coastal sage scrub, southern maritime chaparral, maritime succulent scrub, southern mixed chaparral, native grassland, oak woodland)

Any proposed reductions in buffer widths for a specific site shall require sufficient information to determine that a buffer of lesser width will protect the identified resources. Such information shall include, but is not limited to, the size and type of the development and/or proposed mitigation (such as planting of vegetation or the construction of fencing) that will also achieve the purposes of the buffer...

Policy 3-7 of the Mello II LUP and Section 7.13 of the second addendum to the Carlsbad HMP state, in part:

a. The impact and conservation areas for the municipal golf course are shown as a Hardline design in the HMP (Figure 8 Revised), and which shall serve as the standard of review for determining areas in which development may occur in future. Areas shown for conservation shall not be impacted or disturbed except for revegetation, restoration, and other similar activities related to mitigation. Areas shown for impact may be fully developed with appropriate mitigation.

b. Any impacts to Coastal Sage Scrub shall be mitigated by on-site creation at a ratio of 2:1 in compliance with the no net loss standard stated in Policy 3-1.2 (7-1). Onsite revegetation or restoration may be done on agricultural, disturbed or non-native grassland areas. For impacts to the Coastal California gnatcatcher, additional mitigation shall be provided by acquisition and preservation at a 1:1 ratio of land supporting gnatcatchers. Impacts to dual criteria slopes shall not exceed 10%.

[ ... ]

g. In the riparian area of Macario Canyon Creek, two crossings shall be allowed, as shown in the HMP Hardline exhibit. Crossing #1 shall utilize the existing farm road. Crossing #2 shall utilize a bridge span structure. No riparian impacts shall occur for either crossing.

h. The design of riparian buffers shall be as shown in the HMP. Buffers shall be landscaped with appropriate native, non-invasive plants to provide a natural transition between recreational areas and riparian habitat, as well as to discourage human intrusion into the riparian area. Appropriate signing and fencing will also be utilized.

As defined in Section 30107.5 of the Coastal Act, ESHA is defined as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” In 1993, the coastal California gnatcatcher was listed as threatened under the federal Endangered Species Act (ESA) ), 16 U.S.C. § 1531 *et seq.* The coastal California gnatcatcher is found primarily in coastal sage scrub habitat in southern California. The Carlsbad HMP, which includes the golf course site hardline, is a segment of the state’s larger NCCP program that is being developed in response to the listing of the California gnatcatcher.

The Carlsbad HMP and the Multiple Habitat Conservation Program (MHCP) are intended to meet criteria for the California Department of Fish and Game's (CDFG) Natural Communities Conservation Planning process (NCCP), which was initiated in southern California in 1991 and of the federal Endangered Species Act (ESA). The objectives of the southern California NCCP program include identification and protection of habitat in sufficient amounts and distributions to enable long-term conservation of the coastal sage community and the California gnatcatcher, as well as other sensitive habitat types. Generally, the purpose of the HCP and NCCP processes is to preserve natural habitat by identifying and implementing an interlinked natural communities preserve system. Through these processes, the resource agencies are pursuing a long-range approach to habitat management and preserve creation that expands upon more traditional mitigation approach to habitat impacts. Although HCPs have been prepared for areas as small as a single lot, the MHCP and its subarea plans are intended to function at the citywide or regional level, instead of focusing on impacts to individual properties. Implementation of this large-scale approach to habitat conservation will allow some development involving incidental take of listed species and/or environmentally sensitive habitat in those areas where it is most appropriate, in order to preserve the largest and most valuable areas of contiguous habitat and their associated populations of listed species.

In 1992, the City signed an NCCP agreement with the California Resources Agency to develop the Habitat Management Plan (HMP) as part of the City's General Plan. The 1992 agreement enrolled the City in the NCCP program as an "Ongoing Multi-Species Plan" as defined in the NCCP process guidelines. The agreement was supplemented in 1993 to clarify that the HMP is a subarea plan of the San Diego County MHCP.

The MHCP study area involves approximately 186 square miles in northwestern San Diego County. This area includes the coastal cities of Carlsbad, Encinitas, Solana Beach and Oceanside, as well as the inland cities of Vista and San Marcos and several independent special districts. The participating local governments and other entities will implement their portions of the MHCP through individual subarea plans such as the Carlsbad HMP. Once approved, the MHCP and its subarea plans will replace interim restrictions placed by the U.S. Fish and Wildlife Services (USFWS) and the California Department of Fish and Game (CDFG) on impacts to coastal sage scrub and gnatcatchers within that geographical area, and will allow the incidental take of the gnatcatcher and other covered species as specified in the plan. Although the HMP is a subarea plan of the MHCP, it will receive its own federal take permit and is not subject to finalization of the MHCP in order to be approved.

The City developed the HMP to meet the requirements of a habitat conservation plan pursuant to section 10(a)(2)(A) of the Endangered Species Act [16 USC §1539(a)(2)(A)]. The draft Carlsbad HMP was initially approved by the Carlsbad City Council on September 21, 1999. An addendum was then prepared based on comments provided by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), and the revised document, dated December 1999, was submitted to the wildlife agencies for approval of an incidental take permit (ITP) under section 9(a)(1)(B) [16 USC § 1538(a)(1)(B)] of the Endangered Species Act. Issuance of the permit would

have predated approval of the final HMP itself, and was requested in order to begin development of a City golf course which had been included as a “hardline” property in the HMP with pre-agreed limitations on development area and mitigation requirements, as agreed between the City and the wildlife agencies. These “hardline” properties were designated in the HMP with specific development/ conservation footprints approved by the wildlife agencies. If development is proposed on these sites in a manner that is substantially in conformance with the hardline, the development will be authorized consistent with all other regulatory standards and procedures. The purpose of this process is to ensure that certain areas of onsite habitat will be set aside for permanent preservation, and that the property owners have committed to abide by the established development limitation upon approval of the HMP.

Because construction of the golf course would inevitably result in impacts to environmentally sensitive habitat, such as coastal sage scrub occupied by gnatcatchers, the 1999 draft HMP allowed mitigation for these impacts through a combination of onsite preservation of habitat that was to remain undeveloped, onsite restoration and creation of riparian area that would be impacted by the golf cart paths, and offsite acquisition of coastal sage scrub habitat for preservation. However, the Coastal Act does not allow onsite preservation to count as mitigation in the Coastal Zone, and the second HMP addendum (February 2003) was revised to exclude onsite preservation from acceptable mitigation methods for habitat impacts.

On June 7, 2000, the Carlsbad Planning Commission certified an environmental impact report (EIR) for the proposed Carlsbad city golf course, and approved a coastal development permit for the golf course development. The Coastal Commission appealed the City’s CDP based on concerns regarding the project’s inconsistency with the habitat protection policies in the certified LCP. The City submitted a revised golf course plan to the Commission on February 7, 2003, as part of LCPA No. 1-03B (Habitat Management Plan). The LCP amendment was approved with modifications on June 12, 2003, and the City accepted the modifications on June 17, 2003. The certification of the LCP amendment is scheduled for the Commission meeting of August 8, 2003. The revised design is consistent with the Mello II Land Use Plan of the LCP and the Carlsbad HMP.

As previously described, within the coastal zone the revised golf course will impact 14.2 acres of coastal sage scrub (3.7 acres on steep slopes) and 73.3 acres of non-native grassland. The areas of coastal sage scrub have been determined to be ESHA because they provide nesting and foraging habitat for documented California gnatcatchers, and because of the important linkage provided between native habitat on this property and other sections of the wildlife corridor that join Core Area 4 and Linkage Area F in the HMP planning area. However, if mitigated as proposed, the replaced coastal sage scrub will be located in areas that provide larger contiguous contributions to the onsite conservation area, and will ensure that the wildlife corridor and gnatcatcher population will have sufficient areas of high-quality habitat for species survival. In addition to providing a minimum ratio of 1:1 new creation to mitigate for habitat impacts, an additional 1:1 mitigation requirement is also required (restoration, revegetation, etc.) to

ensure that the lower habitat values of a less mature vegetation community and/or any difficulties in establishing the new habitat will be compensated. Although nine gnatcatcher use areas will be impacted by the proposed development, the revised design will result in a substantial reduction in impacts to the overall coastal sage scrub community that supports the gnatcatcher population. The proposed take of seven gnatcatchers on the golf course site, as allowed by the Incidental Take Permit issued by the U.S. Fish and Wildlife Service, will be partially mitigated by the offsite acquisition and preservation of 51.6 acres containing 5 pairs of gnatcatchers within the MHCP core area in unincorporated San Diego County.

Mitigation will be provided for all coastal sage scrub impacts at a 2:1 ratio, with at least 1:1 new creation, to ensure no net loss of habitat. This mitigation will be accommodated onsite to restore and improve wildlife corridor connections. Temporary impacts to the onsite riparian area for construction of golf cart path crossings will be mitigated at a 1:1 ratio. For the proposed impacts to coastal sage scrub (14.1 acres total; 3.7 in the coastal zone), 28.2 total acres of mitigation will be required. Mitigation in the form of new creation and/or substantial restoration will be required for 14.1 acres of this total amount; the remaining 14.1 acres of mitigation may include new creation, restoration or revegetation, or a combination of these methods. As identified on the "City of Carlsbad Golf Course Revisions" plan (February 2003), and in Exhibit 9, mitigation opportunities for onsite creation exist in the areas identified as non-native grassland, agricultural land, and existing landscaping. Mitigation opportunities for onsite restoration and revegetation exist in the areas identified as disturbed coastal sage scrub, coastal sage scrub/native grassland mix, and disturbed areas. Sufficient area is available onsite within all these identified existing vegetation types to accommodate the required 2:1 mitigation for the 14.1 acres of total impact to coastal sage scrub. The proposed mitigation measures are consistent with the Mello II LUP and the Carlsbad HMP.

Based upon the requirements for upland habitat mitigation in Policy 3-1.10 of the Mello II LUP and Section 7-9 of the Carlsbad HMP (Exhibit 10), Special Condition #2 and Special Condition #3 will ensure that no net loss of either upland or wetland/riparian habitat will result, and there will be no permanent riparian or wetland impacts from construction. Although temporary wetland/riparian impacts resulting from the golf cart path crossings over the onsite creek will be unavoidable, the applicant shall be required to submit a detailed revegetation plan and restoration program, with a mitigation ratio of 1:1. No permanent impacts to riparian or wetland areas shall be allowed.

Consistent with Policy 3-1.12 of the Mello II LUP and Section 7-11 of the second addendum to the Carlsbad HMP, buffers are required between all preserved habitat areas and development. The purpose of buffers is to provide a clear delineation between habitat and development area and protect habitat from encroachment and adjacent activities. The minimum baseline buffer widths for wetlands and riparian areas have been established respectively at 100 feet and 50 feet. However, the Mello II LUP and the HMP allow buffer width reductions if the applicant can demonstrate that a reduced buffer can still protect the identified resources. The application must provide information regarding the size and type of the development and/or proposed mitigation

(such as planting of vegetation or the construction of fencing) that will fulfill the purpose of the buffer. The concurrence of the wildlife agencies is also required. The golf course design includes reduced permanent buffers between the golf cart path crossings, the golf course playing areas, and the riparian/wetlands areas of the creek, to keep the golf course development as compact as possible, and reduce additional encroachment into native upland vegetation. For these identified areas, there will be a minimum average post-construction buffer of 25 feet between new development and riparian areas, and 50 feet between new development and wetlands. At no point shall the buffer width be less than 10 feet. The reduced buffers will be required to provide adequate protection for onsite riparian and wetland resources, as supported by protective water quality requirements included in Special Conditions #5 (Erosion Control Plans), #6 (Drainage and Polluted Runoff Control Plan), #7 (Water Quality Monitoring Plan) and #8 (Turf and Pest Management Plan) that have been established to protect water quality, prevent discharge of untreated onsite runoff into the creek and minimize overall pollutant loads. The wildlife agencies have concurred with the reduced buffers for these areas. For all other areas of the golf course site, the baseline minimum buffer of 100 feet shall be provided between development and wetlands, and a minimum buffer of 50 feet shall be provided between development and riparian areas.

The permittee shall be required to comply with an approved monitoring plan and submit post-restoration plans, to demonstrate that the restoration sites have been established in accordance with the approved design and construction methods. Implementation of this condition will ensure that there is no net loss or permanent impact to wetland and/or riparian areas, that revegetation and restoration activities are carried out according to the approved plans, and that adequate buffers are provided for all onsite riparian and wetland areas.

The revised golf course design will impact 3.7 acres of dual criteria slopes in the coastal zone, or 7.2% of the total amount of dual-criteria slopes. Dual-criteria slopes are protected in Policy 4-3(b)(1) of the Mello II LUP, which states that slopes of 25% grade and over that are covered by coastal sage scrub and/or chaparral plant communities, and/or which possess endangered plant/animal species, shall be preserved in their natural state, with a potential exception for encroachment not to exceed 10%. This percentage of steep slope encroachment may be modified only for development consistent with the approved HMP and the City's Incidental Take Permit. The revised golf course design has shifted development areas to avoid dual-criteria slopes to the greatest extent feasible. The revision will impact 4.8 fewer acres than the original design, which would have allowed encroachment into 16.6% of the dual criteria slopes in the coastal zone, and the revised percentage of 7.2% encroachment into steep slopes is consistent with the Mello II LUP and the Carlsbad HMP. The golf course development will not impact any existing designated view corridors or views of the coast, and will be appropriately landscaped and oriented to ensure that there will be no significant visual impacts.

Since the project has been revised, only conceptual plans have been submitted. As such, Special Condition #1 requires the applicant to submit detailed final development plans, including site, building, grading and drainage plans, to ensure that development is

consistent with the “City of Carlsbad Golf Course Revisions” plan that was approved as part of LCPA 1-03B, and with the Carlsbad HMP. The plans shall detail that no impacts to southern maritime chaparral habitat are allowed within the Coastal Zone, and that the proposed golf course and associated development shall be located only within the development areas detailed in the hardline map of the HMP.

As provided in Special Condition #2, impacts to coastal sage scrub must be consistent with the approved final development plans, and must be mitigated at not less than a 2:1 ratio. Sections 7-8 and 7-9 of the second addendum to the Carlsbad HMP, and Policies 7-1.9 and 7-1.10 of the Mello II Land Use Plan (LUP) of the LCP, provide that there shall be no net loss of coastal sage scrub. Mitigation for impacts shall include a creation component of at least 1:1 in order to meet the no net loss standard. Substantial restoration of highly degraded areas (where effective functions of the habitat type have been lost) may be substituted for creation, if the wildlife agencies agree. Onsite preservation of habitat is not eligible for mitigation credit. A minimum buffer of 20 feet shall be provided between development and native upland habitat, unless reduced buffers are found to be acceptable consistent with Section 7-11 of the second addendum to the Carlsbad HMP and Policy 3-1.12 of the Mello II LUP. Implementation of this condition will ensure that there is no actual loss of habitat acreage and that all impacts will be fully mitigated. This condition also requires that goals, objectives and performance standards be developed. Monitoring of the upland mitigation sites is also required with reports developed annually on the success of the mitigation efforts to meet the goals, objectives and standards.

Special Condition #3 addresses temporary impacts to riparian/wetland area adjacent to the onsite creek, which may result from the two proposed crossings for golf cart paths. If temporary impacts to these areas are unavoidable, the applicant shall be required to submit a detailed revegetation plan and restoration program, with a mitigation ratio of 1:1. No permanent impacts to riparian or wetland areas shall be allowed. Consistent with Policy 3-1.12 of the Mello II LUP and Section 7-11 of the second addendum to the Carlsbad HMP, buffers are required between all preserved habitat areas and development. The minimum baseline buffer widths for wetlands and riparian areas have been established respectively at 100 feet and 50 feet. However, the Mello II LUP and the HMP allow buffer width reductions if the applicant can demonstrate that a reduced buffer can still protect the identified resources.

The golf course design includes reduced permanent buffers between the golf cart path crossings, the golf course playing areas, and the riparian/wetlands areas of the creek, to keep the golf course development as compact as possible, and reduce additional encroachment into native upland vegetation. For these identified areas, there will be a minimum average post-construction buffer of 25 feet between new development and riparian areas, and 50 feet between new development and wetlands. At no point shall the buffer width be less than 10 feet. The reduced buffers will be required to provide adequate protection for onsite riparian and wetland resources, as supported by protective water quality requirements included in Special Conditions #5 (Erosion Control Plans), #6 (Drainage and Polluted Runoff Control Plan), #7 (Water Quality Monitoring Plan)

and #8 (Turf and Pest Management Plan) that have been established to protect water quality, prevent discharge of untreated onsite runoff into the creek and minimize overall pollutant loads. The wildlife agencies have concurred with the reduced buffers for these areas.

The permittee shall be required to comply with an approved monitoring plan and submit post-restoration plans, to demonstrate that the restoration sites have been established in accordance with the approved design and construction methods. Implementation of this condition will ensure that there is no net loss or permanent impact to wetland and/or riparian areas, that revegetation and restoration activities are carried out according to the approved plans, and that adequate buffers are provided for all onsite riparian and wetland. Consistent with Policy 3-1.12 of the Mello II LUP and Section 7-11 of the second addendum to the Carlsbad HMP, reduced permanent buffers between the golf cart path crossings and the riparian/wetlands areas of the creek shall be allowed, with a minimum post-construction buffer of 25 feet between new development and riparian areas, and 50 feet between new development and wetlands. For all other areas of the golf course site, permanent minimum buffers of 100 feet shall be provided between development and wetlands, and a minimum buffer of 50 feet shall be provided between development and riparian areas.

The permittee shall be required to comply with an approved monitoring plan and submit post-restoration plans, to demonstrate that the restoration sites have been established in accordance with the approved design and construction methods. Implementation of this condition will ensure that there is no net loss or permanent impact to wetland and/or riparian areas, that revegetation and restoration activities are carried out according to the approved plans, and that the required buffers are provided for all onsite riparian and wetland areas.

Special Condition #4 requires that a detailed final landscape plan shall be submitted for the proposed development, and shall include information on the type, size, extent and location of all proposed vegetation and any necessary irrigation. Only drought-tolerant or non-invasive plants may be installed on the site, including habitat buffer areas. The necessary onsite habitat buffers, as required in Special Condition #2, shall be identified, and the applicant shall indicate the type and location of any proposed barriers, signage or other methods that will be utilized to separate golf course activities from protected native habitat, wetlands and/or riparian area. These requirements are intended to prevent the spread of non-native, invasive plants into onsite habitat areas and other offsite coastal resources, promote water conservation, and identify measures that will be taken to separate habitat areas from development.

Special Condition #10 provides that, consistent with Policy 7-1.10.i of the Mello II LUP and Section 7-9.h. of the second addendum to the Carlsbad HMP, all onsite habitat preservation areas and all mitigation areas (onsite and offsite) that will be utilized to address onsite impacts to habitat, shall be secured with conservation easements in favor of the California Department of Fish and Game and the U.S. Fish and Wildlife Service. Special Condition #11 prohibits clearing and grading activities during the gnatcatcher



breeding/nesting season (March 1-August 15), to provide additional protection for the onsite gnatcatchers and avoid take of their young. Special Condition #12 provides that the required wetland, riparian and upland buffer areas be protected as open space. The applicant is required to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on use of the property prior to any conveyance. Additionally, this condition identifies acceptable activities and uses within habitat buffer areas, which will not become part of the golf course preserve area, but which will be required as transitional areas between development and established habitat, and which must be appropriately vegetated and maintained to ensure their continuing protective value.

The San Diego Multiple Habitat Conservation Program (MHCP), of which the Carlsbad HMP is a part, is under the jurisdiction of the wildlife agencies, which are also parties to the Implementing Agreement for the HMP. Although it is anticipated that eventually the management of the preserve areas identified in the HMP will be delegated to a single conservation entity, the final HMP preserve management plan has not yet been prepared. The proposed conservation easements will ensure that any proposed changes to the preserve area boundaries or activities within the preserve will be continue to be within the oversight of the wildlife agencies. In total, 254.6 acres of the 397-acre site will be conserved, including approximately 37 acres of coastal sage scrub, 5 acres of southern maritime chaparral, and 23 acres of riparian/wetland area. (Exhibit 5 shows the golf course development areas; Exhibit 9 shows approximate locations of onsite resources.) The open areas that will become part of the golf course preserve will be part of a major wildlife preserve corridor that runs north-south across Macario Canyon and the Veterans Memorial Park site, and connects the Core 4 and Linkage F habitat planning areas in the Carlsbad HMP. Based upon the above revisions to the golf course site design, the proposed development, as conditioned, is consistent with the Mello II LUP policies for protection of environmentally sensitive habitat.

## 2. Public Access/Public Recreation.

The proposed golf course development is a municipal recreational facility, which will be open to the public and will increase recreational opportunities in the coastal zone. To ensure public access and public awareness, Condition #9 requires that all of the visitor-serving golf course facilities, including the golf course and driving range, clubhouse, and conference center, will be operated as commercial visitor-serving facilities open to the general public, and that any proposed change in the level of public use will require an amendment to the permit. The applicant is also required to provide signage for the golf course facilities indicating that they are open to the public.

The golf course site is inland from the coast, and the proposed development will not affect public access to the coast or impact existing coastal recreational opportunities or uses. The applicant has provided information indicating that the existing and proposed roadway system is adequate to handle the vehicle trips that will be generated by the proposed development, and sufficient onsite parking will be available to the public. As

conditioned, the proposed project will provide adequate public access and public recreational opportunities.

3. Visual Resources and Natural Landforms.

Policy 8-1 of the Mello II LUP states:

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

The City's most recent LCP amendment (June 2003) revised the previous Mello II land use policy regarding preserving of steep slopes with native habitat, or "dual criteria" slopes. Previously, these steep slopes possessing endangered plant/animal species and /or coastal sage scrub and chaparral plant communities, were required to be preserved in their natural state, with limited encroachment allowed to no more than 10% of these areas. As revised, the Mello II LUP habitat protection policies continue to protect these steep slopes, but with the provision that the percentage of steep slope encroachment may be modified only for development consistent with the approved HMP and the resource habitat protection policies of the Mello II LUP, and which is approved as part of the City's Incidental Take Permit pursuant to the adopted HMP. The proposed golf course site development meets all of these requirements. As revised, 3.7 acres of dual criteria slopes in the coastal zone, or 7.2%, will be impacted. This revision will impact 4.8 fewer acres than the original design, which would have allowed encroachment into 16.6% of the dual criteria slopes in the coastal zone. In most cases, the onsite natural landforms of the canyons, wetlands and riparian areas in the coastal zone contain environmentally sensitive habitat, and as conditioned will be protected to the maximum extent feasible while allowing development of the golf course and associated uses.

The golf course clubhouse has been proposed as a split-level two-story structure. Based on draft plans and elevations provided by the City, the clubhouse will be seen as a single-story structure from the main entrance, and as seen from the south, it will be two stories. The project proposes habitable building height up to 35 feet and architectural elements up to 45 feet, which is consistent with the requirements of the Mello II LUP. Setbacks and parking have been provided over the minimum requirement. Two industrial pads are proposed at the eastern edge of the site on either side of College Boulevard. The 8.4-acre pad proposed on the north side of College Boulevard will be located partially in the coastal zone. The 5.9-acre proposed pad on the south side of the road is not located in the coastal zone. Both pads will be accessed from College Boulevard and are designated for golf-course related uses, consistent with the development requirements of the Mello II LUP.

As conditioned, the golf course site design does not impact any existing designated view corridors or views of the coast, and provides the maximum feasible protection for onsite natural landforms. Special Condition #4 addresses landscaping that may be used to screen maintenance facilities and other structures from offsite areas. Therefore, the project will not result in significant impacts to visual quality, view corridors, or natural landforms, consistent with LCP provisions.

#### 4. Runoff/Water Quality.

Policy 4.3(b) of the Mello II LUP provides, in part, that:

No development shall be permitted except pursuant to submittal of a runoff control plan prepared by a licensed engineer qualified in hydrology and hydraulics; such approved plans shall assure that there would be no increase in peak runoff rate from the developed site over the greatest discharge expected from the existing developed site as a result of a 10-year frequency storm. Runoff control shall be accomplished by a variety of measures, including, but not limited to, onsite catchment basins, detention basins, siltation traps, and energy dissipators, and shall not be concentrated in one area ...

Development approvals shall include detailed maintenance arrangements for providing the ongoing repair and maintenance for all approved drainage or erosion-control facilities ...

All permanent runoff-control and erosion-control devices shall be developed and installed prior to or concurrent with any onsite grading activities.

The project conditions include several requirements for plans that address water quality protection and runoff control during construction and operation of the golf course site facilities, including Special Conditions #4 (Final Landscape Plans), #5 (Erosion Control Plans), #6 (Drainage and Polluted Runoff Control Plan), #7 (Water Quality Monitoring Plan) and #8 (Turf and Pest Management Plan).

Generally, golf course operations are reliant on fertilizers and pesticides, and have substantial watering requirements. As a result, runoff associated with the golf course could result in pollution in the form of nutrients and organic phosphates which could affect Agua Hedionda lagoon and its tributaries. Additionally, the use of non-native, invasive plant species in landscaping could adversely affect the environmentally sensitive habitat of the lagoon and other coastal waters if seeds from these plants species were introduced via runoff or bird feces. The necessary grading and removal of vegetation will increase potential for erosion and sedimentation in storm water runoff. Additionally, the proposed development will include parking lots, a clubhouse and conference center, commercial/industrial uses, maintenance facilities, and other impervious structures, all of which will potentially increase the amount of runoff and pollutant load entering nearby waterways. The proposed increases in impervious surface will decrease the infiltrative function and capacity of existing permeable land onsite,

which will promote a corresponding increase in the volume and velocity of storm water runoff that can be expected to leave the site.

Further, pollutants commonly found in runoff associated with golf courses include sediments, nutrients, pesticides, fertilizers, metals, petroleum hydrocarbons, trash and debris, and organic matter. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and chronic toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Due to the sensitivity of the nearby riparian area and the downstream drainages to Agua Hedionda lagoon, and the potential water quality impacts as described above, it is essential for the applicant to establish best management practices and take precautionary measures to ensure that water quality is protected. In order to find the proposed developed consistent with the water and marine resource policies of the certified LCP, the Commission finds it necessary to require the incorporation of BMPs designed to control the volume, velocity and pollutant load of storm water leaving the developed site. These BMPs must address erosion control, pollutant load, runoff pre-treatment, water quality monitoring, and storm water facilities maintenance. With the inclusion of water quality monitoring as a permit condition, any impacts to water quality that may occur despite precautions can be identified, and the source of the impacts evaluated and treated with appropriate measures. For the above-described reasons, the applicant will be required to submit and receive approval for plans addressing storm water runoff, erosion control, and water quality monitoring. Additionally, since a golf course development is likely to be dependent to some degree on the use of fertilizers and/or pesticides to maintain turf health, additional conditions for a turf and pest management plan have also been included to reduce chemical runoff impact from the golf course itself to the maximum extent feasible.

Special Condition #4 requires vegetation selected for landscaping to be native drought-tolerant species or adapted non-invasive material. The use of drought-tolerant vegetation greatly reduces the need for intensive irrigation, which in turn reduces the potential for excessive irrigation to result in nuisance runoff from the site. Additionally, any irrigation system utilized is required to be efficient technologically, which will serve to prevent excess irrigation and resulting nuisance runoff from occurring. Furthermore, native or adapted plants are well suited to regional conditions, and therefore do not have to be sustained with heavy fertilizer or pesticide applications. Minimizing the need for topical agents such as fertilizer and pesticides should reduce or eliminate their

application, thereby minimizing pollutants susceptible to stormwater and nuisance runoff from the site.

Special Condition #5 addresses erosion and sedimentation control requirements for both construction activities during the site development period. The applicant shall submit an erosion and sediment control plan that delineates the areas to be disturbed by development activities, identifies natural areas and areas to be protected, and establishes protective measures to minimize offsite sedimentation and prevent onsite erosion, particularly during the rainy season (October 1-March 31). These requirements are intended to prevent offsite downstream impacts to water quality due to large amounts of sediment leaving the site.

Special Condition #8 provides specific requirements for fertilizer and pesticide management. Special Condition #7 provides for water quality monitoring to ensure that the runoff control measures as contained in the other relevant special conditions are adequately protecting coastal water resources.

The project will be consistent with Best Management Practices (BMPs) as provided in Special Condition #6, and all local, state, and federal regulations regarding water quality and waste discharge. The City obtained a 401 water quality certification from the San Diego Regional Water Quality Control Board in 1999, which will require amending for consistency with the current golf course design. The Commission's water quality staff has reviewed the proposed project and determined that, as conditioned, the proposed project is consistent with the water quality protection policies of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

As noted above, the project site is located north of Palomar Airport Road, south of Faraday Avenue, east of Hidden Valley Road, and extends on either side of College Boulevard, and is within the jurisdictional area of the Mello II Land Use Plan segment of the Carlsbad LCP. The Commission has certified the Mello II Land Use Plan and Implementation Program for this LCP segment. The Carlsbad HMP is also a part of the certified LCP. As discussed above, the proposed development, as conditioned, can be found consistent with the Mello II LUP, the Carlsbad HMP, and all applicable Chapter 3 policies of the Coastal Act. Therefore, the project will not have any impacts on coastal resources and will not prejudice the ability of the City of Carlsbad to administer its certified Local Coastal Program for the area.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California

Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the applicable provisions of the certified LCP as well as with the public access and recreation policies of Chapter 3 of the Coastal Act. Mitigation measures, including conditions addressing habitat impacts and mitigation, landscaping, and storm water management to minimize adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.